

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010060835

ORDER DENYING MOTION TO
DISMISS

Administrative Law Judge Clara L. Slifkin, Office of Administrative Hearings (OAH) heard this Motion to Dismiss (Motion) in Los Angeles, California, on January 11, 2011, January 24, 2011 and January 25, 2011.

Suzanne N. Snowden, Attorney at Law, appeared on behalf of Student. Mother was present at the hearing.

Lauri F. LaFoe, Attorney at Law, appeared on behalf of the Los Angeles Unified School District (District). Joyce Kantor, Due Process Specialist for District, was also present at the hearing.

The parties presented witnesses and documentary evidence on the Motion and the matter was submitted on January 25, 2011. The parties requested time to prepare closing briefs and agreed that closing briefs on Motion would be filed on February 3, 2011. The parties requested, and were granted, a continuance of the underlying Due Process Hearing to March 8, 2011 through March 11, 2011, with a prehearing conference on February 28, 2011, at 10:00 am.

ISSUE

Whether Student provided proof of residency to the District so that District was responsible for providing Student a Free Appropriate Public Education (FAPE) for the 2008-2009 and the 2009-2010 school years.

PROCEDURAL HISTORY

On June 15, 2010, Student filed a due process request (complaint) in the above-captioned matter naming the Los Angeles Unified School District (District) as the respondent. In her complaint, Student raised two issues. (1) District denied Student FAPE for 2008-2009 school year because it developed an individualized education program (IEP) but then would not permit her to enroll at the school indicated on the IEP. (2) District's proposed IEP for the 2009 – 2010 school year denied her FAPE.

On July 16, 2010, the District filed a motion to bifurcate the issue of whether Student was a resident of the District during the time period covered by the complaint. Student filed an opposition to the District's motion on July 19, 2010. On July 22, 2010, OAH issued an order denying District's motion to bifurcate the proceedings without prejudice. The ALJ found that District failed to present evidence in its motion.

On September 1, 2010, Student filed a Motion to Amend the Complaint to add a Third Issue: Is District the Responsible Agency required to provide Student with a FAPE? Student alleged that this was an affirmative defense raised by the District and therefore, District bears the burden of proof on this issue. On September 8, 2010, OAH issued an Order Granting the Amendment.

On January 3, 2011, a telephonic prehearing conference (PHC) was held. At the PHC, the hearing dates were confirmed and the parties discussed the issues, witnesses and exhibits. At the PHC, Student made a request that the record in this matter be sealed on the grounds that this hearing involves residency, and there would be testimony and documents that contained her address. She argued that Student's address is confidential pursuant to a March 22, 2007 Superior Court Order in Case No. BF019963 (Court Order), and the Court ordered that Student's home address shall continue to be confidential and the Domestic Violence Restraining Order against Father shall be extended. District did not object to Student's request to seal the record. To comply with the Court order, instead of sealing the entire record, it was ordered that documents that contained Student's home address would be marked for identification, admitted, and placed in a manila envelope marked confidential.

The parties entered into the following stipulations to keep Student's home address confidential: 1) Student's home address is to be kept confidential pursuant to court orders of the Superior Court and the ALJ. 2) Student's address shall be referred to for all purposes as Address A.

On January 4, 2011, the ALJ issued an Order Following Prehearing Conference (Order). Issue One pertained to residency and was framed as follows: "Did Student reside in District so that District was responsible for providing Student a FAPE for the 2008-2009 and 2009-2010 school years?"

On January 10, 2011, the day before the hearing, District filed a Request to Clarify Issue One and a Motion to Bifurcate, requesting that the issue to be determined should be

framed as “Whether Student provided proof of residency to the District so that District was responsible for providing Student a FAPE for the 2008-2009 and 2009-2010 school years” District argued that residency was a threshold issue when determining the appropriate District to provide student FAPE and that it was jurisdictional. It also contended that it is irrelevant whether the Student can prove that she did in fact live within the District’s boundaries. Rather, District contended the issue was whether Student complied with the residency requirement to provide her home address to the District during those school years.

On January 11, 2011, prior to commencing the hearing, Student’s attorney filed Student’s Opposition to District’s Motion to Bifurcate. After considering the parties’ arguments, District’s Motion and Student’s Opposition, the ALJ ruled that District’s Motion to Bifurcate shall be deemed a Motion to Dismiss based on a jurisdictional issue, residency, and District shall bear the burden of proof.

FACTUAL FINDINGS

Background

1. Student is 8-years-old, and qualified for special education under the category of autistic-like behaviors.

2. Mother and Father divorced in 2007. The Superior Court awarded Mother sole legal custody of Student and final decision-making power regarding Student’s educational rights. Student’s biological father does not hold any educational rights with respect to Student.

District finds Student eligible and provides services for Student

3. On August 15, 2005, District held an initial IEP meeting. Student was found to be eligible for placement and special education services as a Student with autistic-like behaviors. The IEP team found that District did not have a therapeutic enough setting to meet Student’s educational needs and therefore Student was offered placement in a nonpublic school (the NPS). For the 2005-2006 school year, Student attended the NPS.

4. On July 17, 2006, Student’s annual IEP was held. The IEP team offered placement at the NPS for the 2006-2007 school year. In addition, Student was provided an adult assistant (AA) for the entire school day. Mother consented to the IEP.

5. Junnel Tomista was Student’s preschool teacher at the NPS for the 2005-2006 and 2006-2007 school years. She testified that she visited Student at home and that it is located in the geographical boundaries of the District. She stated that she had personal knowledge that Student continued to reside at the same address. She also testified that the NPS had Student’s home address but it was not placed into Student’s file because of the Court Order that deemed Student’s address confidential.

6. On June 19, 2007, Student's annual IEP was held and the IEP team offered Student kindergarten placement at the NPS. Parent disagreed with the IEP team's offer of placement and informed the District that she would privately place Student for the 2007-2008 school year, and would seek reimbursement. Student filed a Request for Due Process and Mediation and the matter was settled. District agreed to reimburse Mother for Student's placement at a private preschool, a Circle of Friends.

7. The evidence established that Mother filed reimbursement claims for Student's tuition for Circle of Friends and that District mailed reimbursement checks to Student's home address. Documentary evidence showed that on September 17, 2008, Donnalyne Jaques-Anton, Associate Superintendent of Division of Special Education sent a request for payment to District's Accounting and Disbursements Division and Student's home address was on the request. Thus, Student's home address was available to District.

The 2008-2009 school year

8. As part of a settlement agreement, District worked with Mother to set up an IEP meeting at Clover Avenue Elementary School (Clover). Clover was Student's home school based on the address Mother gave to District. Student's annual and transition to kindergarten IEP team meeting was held on May 28, 2008. The team's offer of FAPE for the 2008-2009 school year was: (1) placement in a general education kindergarten classroom at Clover, (2) behavior support plan, accommodations and strategies, (3) 30 minutes a week of speech therapy, (4) 60 minutes a week of resource specialist program, and (5) 185 minutes a month of occupational therapy. Student's behavior support plan would be monitored via collaboration between a school psychologist and the classroom teacher for up to 60 minutes a month. Placement and services were contingent upon Student's enrollment in a District setting.

9. At hearing, Clover principal Sharon Fabian (Fabian) stated that after the May 2008 IEP meeting, she was informed that the address Mother provided on Student's IEP was a business address. After confirming that the address was a business, Fabian requested Mother to provide proof of residency. Fabian testified that Mother informed her that she had a Court Order deeming her home address confidential. Although Fabian requested a copy of the Court Order, Mother did not provide her with a copy of the Court Order or residency documentation. Following school protocol, Fabian contacted a Pupil Services and Attendance (PSA) counselor to further investigate the residency issue.

10. Krista Conley (Conley) testified that she was a PSA counselor and during the summer of 2008, at Fabian's request, she investigated and found that the address provided by Mother was a business address. Conley left her card at the address and Mother called her to discuss residency. Conley confirmed that Mother sent her a copy of the Court Order by facsimile. Conley could not recall when she received the Court Order. However, Mother's testimony and supporting documentary evidence demonstrated that this facsimile was sent to Conley on July 24, 2008.

11. At hearing, Mother explained that she called Conley to follow-up on the Court Order. Mother testified that she told Conley she was concerned about disclosing her confidential home address because she was informed that District would enter it into its computer system. She also informed Conley that she would be willing to show District documents to prove she resides in the District, provided that the documents were not copied. During this conversation, Conley assured Mother that she would forward the Court Order to District's legal counsel to determine if the order would be sufficient for enrollment. Although Conley stated that she would call Mother to discuss, the evidence showed that Conley did not call Mother to tell her how to proceed.

12. Contrary to District's assertion that Mother did not have further contact with District during the summer of 2008, documentary evidence supported Mother's testimony that she did. Mother persuasively testified that sometime between the IEP and before June 9, 2008, when she visited Clover, she returned the enrollment packet to Clover. On June 2, 2008, Mother sent an e-mail to District staff to confirm that all aspects of the IEP would be implemented pending Mother filing a Request for Due Process that focused on District's failure to offer Student an aide. In this e-mail it was very clear that Mother was very interested in District's offer of placement because Mother scheduled a classroom visit on June 9, 2008. Mother and Student visited Clover in June of 2008 to observe Student's placement.

13. Clover principal Fabian testified that on October 10, 2008, she wrote a letter to Mother, stating District was holding a space for Student in a general education kindergarten class, upon proof of her residing in the Clover area. Fabian explained that she mailed this letter certified mail and Mother did not respond to her letter.

14. However, Mother persuasively testified that she did not receive Fabian's letter. The October 10, 2008 letter was unusual, as it was addressed to Mother but did not contain the address to which it was being sent. Student issued a January 13, 2011 Subpoena Duces Tecum (SDT) for the contents of a manila folder that was in Principal Fabian's office. On January 24, 2011, Fabian as the custodian of that file produced the folder and testified at the hearing about its contents. The folder contained the original letter, with a blue signature. The letter was not a copy and did not contain a return receipt for the certified mail. Fabian could not explain why the original letter was in the file or explain where the receipt was if it had been sent certified.

15. On January 26, 2009, Mother sent Conley a letter indicating that she had not heard from Conley about the sufficiency of the Court Order and her request that if she provided documents to District to show Student resided in District that those documents not be copied. Because Mother had not heard from her or anybody in the District about enrollment, she had no option but to place Student in private school for 2008-2009 school year. Neither Conley nor anyone else from the District responded to Mother's letter. During the remainder of the 2008-2009 school year, no District employee attempted to communicate with Student, by mail, e-mail or letter.

The 2009-2010 school year

16. Six months later, on June 24, 2009, District's Associate Superintendent of Special Education sent a letter to Mother's work address indicating that the District has a duty to search, locate and provide FAPE for all children with disabilities who reside within District boundaries. The Associate Superintendent also wrote that the anniversary of Student's IEP was May 28, 2009 and parents may request a reassessment or an IEP meeting to review Student's IEP. Also on June 24, 2009, the Coordinator of District's Private/Charter Schools wrote to Mother indicating that District would like to arrange a meeting to discuss the District's Private School Policy.

17. On or about July 7, 2009, Mother requested an IEP meeting. As a result of Mother's request, an IEP was held at Clover, on October 27, 2009.

18. The IEP team meeting went forward on October 27, 2009. The IEP team consisted of Mother, Assistant Principal Katherine Choe (Choe), Special Education Teacher Kristen Baldrige, and General Education Teacher Betty Chin. Mother's purpose in requesting the IEP meeting was for District to offer Student services and placement for the 2009-2010 school year. However, Choe informed Mother that before continuing with the IEP process, District required Mother to provide proof of residency within District boundaries. Mother responded that she would provide proof but did not want her home address to be used in any manner at the school site, and Mother had a Court Order to address her request. Alternatively, Mother requested District use her work address, but Choe insisted on proof of residency. The IEP team agreed to recess and reconvene after Mother provided documentation of residency and the Court Order.

19. The evidence established that on November 5, 2009, Mother sent to Clover by facsimile a copy of the Court Order. Choe received it, reviewed it, and sent a copy of the Court Order to District's General Counsel. On November 10, 2009, District's Counsel informed Choe that the Court Order did not pertain to District, and Mother must provide proof of residency. However, the interpretation of the Court Order by District's counsel was flawed, because the Order explicitly stated that Student's address was confidential, and it did not exempt District. During November 2009, Mother and Choe made more than six calls to each other to discuss the residency issue but they were never able to connect. Choe testified at hearing that on February 25, 2010, she left Mother a message in anonymous voice mailbox "204," stating that the Court Order did not apply to District, Clover required proof of Student's residency, District would try to keep Student's residence address confidential and to call if Mother had questions. Mother persuasively testified that she did not receive Choe's message, she did not have a general mailbox, and if she had received a message she would have called Choe. Mother's testimony was persuasive because Choe left the phone message in a generic mailbox that was not Mother's, and it would have been reasonable for Choe to follow up with a letter or an e-mail.

20. At no time after receiving the Court Order in November 2009, did District make direct contact with Mother on the telephone or by e-mail or letter. District also failed

to reconvene the Student's October IEP to discuss: General Counsel's position on the Court Order, how it proposed to keep Student's address confidential, and ways to resolve the residency issue.

Residency

21. District did not present any evidence to demonstrate that Student was not a resident of the District or that she moved. In contrast, Student produced convincing evidence in the form of Mother's testimony and utility bills that showed Student lived within the District's boundaries at all relevant times.

22. The evidence showed that Mother's business address was within the geographical boundaries of the District. Using this address, District directed Student to Clover as Student's neighborhood school. Although California law provides that a District may use a parent's work address to establish residency, District never presented this as an option to Mother.

23. Mother's testimony that she feared Student's Father would harm her and Student was persuasive. Mother had a reason to fear that if District entered Student's home address into its computer system and kept it at Clover, Father would be able to access her home address even if it was marked confidential.

District's policy on proof of residency

24. District contends that its policy contained in District's Policy Bulletin, Bul. No 1292 (District Policy) governed the process and procedure for enrolling Student within the District. District Policy emphasized the importance of adhering to practices that encourage and support the immediate enrollment and regular attendance of all students. It provided that school personnel shall, without delay, register and enroll all known non-enrolled students residing within the school's attendance boundaries. In order to enroll, a student must reside with a parent, who resides within the boundaries of the District. The District policy provided that a parent may use as evidence of residence utility bills, property tax documents, rental or lease agreements, or other similar documents. If a parent does not have documented proof of residency parent must be allowed to submit, and the school must accept, an affidavit verifying residence. The evidence showed that the District failed to follow its own procedure for enrolling students, because it failed to proceed without delay enrolling Student. District also failed to inform Mother that she would be able to provide an affidavit verifying her residence.

25. District Policy also provided that if school officials have reason to believe that the address provided by parent was incorrect, every effort must be made to ascertain the correct information. School staff has the right and obligation to conduct a thorough investigation so the school principal can take appropriate action. Such an investigation shall include: (1) mailing a letter requesting verification to the current and previous address with "Do Not Forward. Address Correction" automatically appearing on the envelope from the

District Mail Unit; (2) initiating a home visit by the PSA Counselor; (3) searching ISIS to locate siblings; (4) contacting CAL Works, DCFS and DPSS, Probation Department for residence information; and (5) interviewing students for residence information. The evidence established that District did not conduct a thorough search and follow District's own Policy in its investigation.

26. According to District Policy, District must work with a parent to affect a resolution that results in the least disruption of the student's academic program. Here, District required that Student's confidential home address be copied and placed into District's computer system. District's witnesses testified that this was required to enroll Student and there were few exceptions to this requirement. To insure confidentiality District would be able to place Student's address in its computer system and at Clover and mark it confidential. However, because of District's size and large student population, Mother feared that Father would be able to access this information. District did not work with Mother to explore alternatives to resolve this issue

27. The evidence showed that District did not have an effective policy to protect the confidentiality of an address of a victim of domestic violence. However, the State of California has such a program and District failed to inform Mother about the California Confidential Address Program (CAL CAP), developed to help survivors of domestic violence remain safe and retain the confidentiality of their address. The Program provides a parent with a post office box that can be used as an address.

ANALYSIS

1. District contends that the matter should be dismissed because Student did not provide it with proof that she resided in the District during the 2008-2009 and 2009-2010 school years, such that District had no duty to provide Student a FAPE. District argues it had a right to require proof of residency before it enrolled Student, and an uncertified copy of a court document indicating that Mother's address was to be kept confidential did not comply with District's policy. District also asserts that if Student provided District with her address, District's policy required that Student's information be entered into District's computer system and if confidential would be flagged as confidential. As discussed below, District failed to meet its burden of proving by a preponderance of the evidence that Student did not provide it with proof that she resided in the District during the 2008-2009 and 2009-2010 school years.

2. In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387].) Student requested the hearing and, therefore, Student has the burden of proof related to the issues of FAPE. However, with regard to the residency issue, which arose from an affirmative defense raised by District, District bears the burden of proof.

3. Under the Individuals with Disabilities Education Act (IDEA), local educational agencies are charged with "providing for the education of children with

disabilities within its jurisdiction.” (20 U.S.C. § 1413(a)(1).) California law requires students to attend the public school “in which the residency of either the parent or legal guardian is located.” (Ed. Code, § 48200.) Notwithstanding the requirements of California Education Code section 48200, a pupil complies with the residency requirements for school attendance in a school district, if the district deems a pupil to have complied with the residency requirements in the district if at least one parent of the pupil is physically employed within the boundaries of the district. (Ed. Code, § 48204 (b).) Residency under the IDEA is measured by “normal standards.” (*Union School Dist. v. Smith* (9th Cir.1994) 15 F.3d 1519, 1525.) In California, Government Code section 244 lists “the basic rules generally regarded as applicable to domicile [legal residency].” (*Fenton v. Board of Directors* (1984) 156 Cal.App.3d 1107, 1114.)

4. Government Code, section 244, states in relevant part:

In determining the place of residence [domicile] the following rules shall be observed:

...

(b) There can only be one residence.

(c) A residence cannot be lost until another is gained.

(d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child. [¶] . . . [¶]

5. In support of its position that Student must provide proof of residency prior to enrollment, District cites *L.S. v Tustin Unified School District*, (C.D.Cal., Sept. 24, 2007, No. SACV 06-649 CJC, 109 LRP 45311). However, *Tustin* is not persuasive authority, because it is factually distinguishable and the primary legal issue was whether Tustin Unified School District (TUSD) met its child find obligation, to locate, identify, and evaluate a student while he attended private school. There, the student had never been enrolled and never assessed by TUSD, and instead attended a private school during the 2002-2003 and 2003-2004 school years. In May 2004, student’s attorney wrote to TUSD and requested records and an IEP, but TUSD did not have any records. In September 2004, the attorney contacted TUSD, requested an IEP and stated that parents would seek reimbursement for all costs incurred because of District’s failure to identify student. TUSD responded and wrote in September, December and January requesting proof of residency prior to enrollment. Before conducting an IEP, District required the student to provide proof of residency to TUSD because it had no records on student and student was not previously identified as a child with special needs. In September 2004, attorney filed a Request for a Due Process Hearing requesting reimbursement for private school, based on TUSD’s child find obligation. The District Court denied student’s request for reimbursement because it found TUSD had fulfilled its child find obligation. The District Court found that a TUSD’s obligation to provide a FAPE did not arise unless and until a child is found to need services. Here, unlike *Tustin*, prior to District’s request for proof of residency, it had already determined that Student was eligible for special education and had even provided reimbursement for services mailed to Student’s home address. Thus, *Tustin* is neither legally, nor factually applicable to the instant facts.

6. Student argues that the District's analysis is flawed because the issue is whether Student was a resident of the District and not whether Student provided proof of residency to District's satisfaction before developing an IEP. The facts here are similar to the *James v. Upper Arlington School District* (6th Cir. 2000) 228 F.3d 764, 768. In *James*, the student was eligible for special education services, resided in the district, placed in private school and parents requested a new IEP, but the school would not prepare one until student re-enrolled in the public school system. The Circuit Court reversed a lower court's dismissal of the case, remanded the case for further proceedings and found that because the district discouraged student from re-enrolling, student had a viable cause of action. Therefore, the Circuit Court held that when a student's residency in the district was disputed, enrollment should not be contingent upon proof of Student's address. Although FAPE is not an issue in this Motion, in *James* the Court found that a district's failure to hold an IEP for an eligible student pre-enrollment, constituted a violation of a child's right to a FAPE. The Circuit Court explained, "To hold otherwise would allow the school to slough off any response to its duty until the parents performed the futile act of enrolling their son for one day and then withdraw him as soon as the IEP was complete or leaving the child in an arguably inadequate placement." (*Id.* at p. 768.)

7. Here, there is no dispute that Student was eligible for special education services. In fact, the evidence established that District held Student's IEPs for the 2005-2006, 2006-2007 and 2008-2009 school years and offered Student placement and services. During the 2005-2006 school year, District directly paid for Student's placement at the NPS. During the 2006-2007 school year District reimbursed Mother for tuition at the NPS by sending checks to her home address within the District boundaries. On July 7, 2009, Student requested that the District hold an IEP, and an IEP was convened on October 27, 2009 at Clover. At that time, District refused to conduct the meeting until Student provided the District with proof of residency. However, like the school district at issue in *James*, District's duty to provide a FAPE to Student could not be preconditioned on resolving the proof of residency dispute, as such conduct would violate Student's right to a FAPE.

8. District further failed to present any evidence that Student lived outside or had moved out of the District at any time. The District merely showed that Mother gave the District her work address at an IEP team meeting rather than her residence address. District's investigation was limited to Fabian and Conley's observations that the address on Student's IEP was a business. In contrast, Student presented credible evidence that she resided in the District. Student's preschool teacher affirmed that Student resided with Mother within the geographic boundaries of the District. Student presented documentary evidence of her home address including her Department of Water and Power bills from 2004 to the present and a District Request for Payment of Miscellaneous Bills. Therefore, the evidence established that Mother and Student resided within the geographical boundaries of the District at all relevant times.

9. District insisted that if Mother provided proof of residency, it was its policy that Student's home address be entered into its computer system and also kept at Student's school. District failed to present persuasive evidence, that if District flagged Mother's

address and marked it confidential, it would be able to ensure that Student's address would remain confidential and that Father would not be able to access her address. Mother's testimony and documentary evidence showed that Mother feared Father, and the Court Order was issued to protect Mother and Student by ordering that their home address was confidential and issuing a restraining order. Mother presented compelling evidence to show why she would not want the District to copy her home address. If District had communicated and met with Mother, the combination of the court order and other documents would have been sufficient proof of residency.

10. As a separate basis to deny the Motion, District wrongly refused to enroll Student based on Mother's proof of a business address. Pursuant to the Education Code, a pupil complies with the residency requirements for school attendance in a school district, if at least one parent of the pupil is physically employed within the boundaries of the district. The evidence showed that Mother worked within the District's boundaries and that Mother's business address was within Clover's boundaries. Thus, even without proof of Student's home address, District should have enrolled Student and developed an IEP based on the business address.

11. As an additional basis to deny the Motion, the evidence showed that District did not comply with its own policies regarding proof of residency. District Policy provided that if school officials have reason to believe that the address provided by parent was incorrect, every effort must be made to ascertain the correct information. However, District did not conduct a thorough search and follow District's Policy in its investigation. According to District Policy, District must work with a parent to affect a resolution that results in the least disruption of the student's academic program. Here, District did not follow its policy to find a solution that was least disruptive to Student's academic program. In addition, District failed to inform Mother of its own policy that an affidavit may be used to verify a Student's residence.

12. Similarly, District should have been aware of, and failed to inform Mother about the California Confidential Address Program (CAL CAP), developed by the State of California to help survivors of domestic violence remain safe and retain the confidentiality of their address. The Program provides a parent with a post office box that can be used as an address. District's position in this Motion cannot be correct if by law domestic violence victims are assisted in obtaining post office box addresses to avoid further contact with perpetrators.

13. In sum, District did not prove by a preponderance of the evidence that Student failed to provide proof of residency to the District, such that District was not responsible for providing Student a FAPE for the 2008-2009 and the 2009-2010 school years. To the contrary, the evidence was overwhelming that District was the local educational agency responsible for offering and providing Student a FAPE during the 2008-2009 and 2009-2010 school years. Accordingly, District's Motion to Dismiss must be denied.

ORDER

1. District's Motion to Dismiss is denied.
2. The parties shall participate in a prehearing conference on February 28, 2011, at 10:00.a.m. to determine the issues for the due process hearing. The continued due process hearing in this matter shall be heard on March 8, 2011 through March 10, 2011.

Dated: February 24, 2011

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings